

**VIRGINIA BOARD OF DENTISTRY
MINUTES
September 17, 2010**

- TIME AND PLACE:** The meeting of the Board of Dentistry was called to order at 9:01 a.m. on September 17, 2010 in Board Room 3, Department of Health Professions, 9960 Mayland Drive, Suite 201, Henrico, Virginia.
- PRESIDING:** Jeffrey Levin, D.D.S., President
- BOARD MEMBERS PRESENT:** Jacqueline G. Pace, R.D.H., Vice President
Robert B. Hall, Jr. D.D.S., Secretary-Treasurer
Herbert R. Boyd, III, D.D.S.
Martha C. Cutright, D.D.S.
Meera A. Gokli, D.D.S.
Misty Mesimer, R.D.H.
Augustus A. Petticolas, Jr. D.D.S.
Paul N. Zimmet, D.D.S.
- BOARD MEMBER ABSENT:** Myra Howard, Citizen Member
- STAFF PRESENT:** Sandra K. Reen, Executive Director for the Board
Dianne L. Reynolds-Cane, M.D., DHP Director
Arnie Owens, DHP Deputy Director
Elaine Yeatts, DHP Senior Policy Analyst
Alan Heaberlin, Deputy Executive Director for the Board
Huong Vu, Administrative Assistant for the Board
- OTHERS PRESENT:** Howard M. Casway, Senior Assistant Attorney General
- ESTABLISHMENT OF A QUORUM:** With nine members of the Board present, a quorum was established.
- INTRODUCTION OF BOARD STAFF:** Ms. Reen stated that Dr. Zimmet requested introduction of staff. She introduced Alan Heaberlin, Deborah Southall, Rose Dematteo, Donna Lee, Huong Vu, Kathy Lackey, and Debbie Carter. Each staff gave a brief overview of their duties. She concluded by commending the staff and saying the Board is fully staffed.
- PUBLIC COMMENT:** **Ed Amrhen, D.D.S.**, President of the Virginia Society of Oral Maxillofacial Surgeons (VSOMS), expressed VSOMS position on the following issues:
- Proposed legislation requiring permits for administration of sedation and anesthesia in dental office – VSOMS wants the Board to make specific provisions for oral and maxillofacial surgeons when setting fees and addressing practice

inspections which recognize the extra fees its members are already paying to register with the Board as well as the inspections they undergo every five years through their national organization.

- Advertising – the Board is heading in a great direction.
- CRNA practice in dental offices – will be happy to help out if the Board wants to amend regulations to allow CRNA to practice in dental office if the dentist is not certified to administer anesthesia.

Gregory Koontz, D.M.D., a periodontist from Williamsburg spoke to the Board about the lack of dental radiologists to read CBT scans. He stated that Virginia law does not permit an out of state radiologist to read scans of Virginia patients unless they hold a Virginia license. He asked the Board to consider the Wyoming model for the use of out of state services.

Lisa Marie Samaha, D.D.S., explained her focus on oral systemic health in her work as a dentist, an educator and a researcher. She also addressed the importance of her advertising and her concern that she has been targeted for advertising complaints which are stressful and costly. She asked the Board to:

- Clarify what actually constitutes a complaint and needs to be investigated. She suggested that a question sent in about an ad should not be treated as a complaint and that the Board might respond with information on the types of allowable advertising.
- Consider adopting a policy that would prevent a licensee from being subjected to repeated frivolous complaints.

Ms. Reen stated that all public comment topics would be considered later under Board discussion/action.

APPROVAL OF MINUTES:

Dr. Levin asked if the Board members had reviewed the minutes in the agenda package. Ms. Pace moved to accept the minutes of the June 10, 2010 meeting. The motion was seconded and carried.

Dr. Petticolas asked that the June 11, 2010 minutes be amended on page 4 in “Establishment of a Quorum”, delete the word “were”; in Public Comment, add “the” in front of Virginia Dental Association. On page 7 in Dental Laboratories, add “s” to “dental lab.” Also on page 10, second bullet to read “administration of sedation and general anesthesia.” Ms. Pace moved to accept the minutes of the June 11, 2010 meeting as amended. The motion was seconded and carried.

Dr. Zimmet moved to accept the minutes of the September 15, 2010 Telephone Conference Call. The motion was seconded and carried.

DHP DIRECTOR'S REPORT:

Dr. Cane reported that:

- The Department is providing Board Member Orientation on October 27, 2010.
- Only the Prescription Monitoring Program at DHP was affected by the recent problems with the state's computer system.
- The physician forecast data from the Workforce Data Center was released to 13 media outlets on September 16, 2010.
- National Take Back Day, an initiative of Drug Enforcement Administration, will be on September 25, 2010. There will be collection sites throughout the state for people to turn in unused medications for destruction. She added that DHP has the lead in coordinating state government activities.

REPORTS:

Board of Health Professions (BHP). Dr. Zimmet reported that there was no meeting since his last report in June 2010. The next meeting will be in about two weeks.

AADB. Dr. Levin reported that he, Ms. Reen and Mr. Casway will attend the AADB annual meeting in Orlando in October 2010.

SRTA. Dr. Gokli reported on the annual business meeting and the changes made to the Dental Examination, which include:

- For the Patient Based section of the exam, the candidate will choose two of the four procedures (Class II Amalgam, Class III Composite, Class II Slot Composite, Class II Conventional Composite) to complete.
- Any form of patient sedation administered by or authorized by the candidate is not allowed and will be grounds for failure of the entire exam and dismissal from the exam,
- For the Fixed Prosthodontic section, criteria error "Margin: depth, clarity, location" will be scored as "Margin" for both the All Ceramic and Full Gold Crown preparations, and
- For the Endodontic and Fixed Prosthodontic procedures only, any candidate receiving a failing score by one examiner will be flagged on the SAC's PDA. The SAC will review the failure in concert with the original three examiners in order to improve examiner calibration.

Dr. Gokli announced that Dr. Wayne Looney, a distinguished colleague, has passed away. She added that Dr. Looney was a very vital part of SRTA. She then asked Ms. Pace to report on the dental hygiene section.

Ms. Pace reported the following issues were addressed by the Dental Hygiene Examination Committee (DHEC):

- Educators' concerns including the elimination of back-up patients,

- Clarification of SRTA policy on cleaning teeth other than those assigned,
- Scheduling the examiner training workshop date, and
- Changes for the 2011 exam to improve procedures and make it more efficient.

Ad Hoc Advertising Work Group. Dr. Boyd stated that the Work Group met on August 20, 2010 and recommended that:

- The Board publish examples of acceptable and unacceptable advertising
- A Guidance document targeted to dentists be issued
- Board members should resume the review of advertising cases
- Guidance Document 60-10 should be amended

He added that the Regulatory/Legislative Committee discussed these recommendations and is advancing a recommendation to the Board.

Regulatory/Legislative Committee. Dr. Hall reported that the Committee met on September 10, 2010 and the following items were discussed:

- Amending the Dental Assistant education requirements to address pulp capping procedures which Ms. Yeatts will go over later on the agenda.
- The current authority of the Board to work with dental labs and to address work orders. He reported that the committee will be drafting a proposed work order template that can be modified or augmented for consideration by the Board. He also said registration of dental labs was discussed and staff was asked to get more information from other states that currently regulate dental labs.
- The recommendations from the Ad Hoc Advertising Work Group. The Committee agreed that a guidance document for licensees should be developed and agreed to recommend some changes to Guidance Document 60-10. It did not agree with changing the case review process.

LEGISLATION AND REGULATION:

Review of Regulatory Action. Ms. Yeatts reported the following:

- Periodic Review - The timeline for developing the draft proposal following the NOIRA for periodic review and reorganization of the regulations is such that the Board needs to either adopt the proposal at its December meeting or ask for an extension which is allowed by Executive Order 14. She noted that given the extensive nature of the changes being made that the Board would need to ask for an extension at its December meeting. Following discussion of when to act, Dr. Boyd moved to request an extension. The motion was seconded and carried.

- Recovery of Disciplinary Costs – Ms. Yeatts noted that this regulation is at the Governor's office waiting for approval to publish for public comment.
- Replacement of Registration of Mobile Clinics Emergency Regulations – Ms. Yeatts noted that the emergency regulations will expire in January 7, 2011 and that it is now impossible for the replacement regulations to be finished before that date. She added that the Board can ask for a six month extension of the emergency regulations. Dr. Boyd moved to request an extension. The motion was seconded and carried.
- Registration and Practice of Dental Assistants – Ms. Yeatts said these regulations need approval from the Governor to be published as final. She added that pulp capping procedures were not addressed in the adopted education requirements. She advised the Board to delegate the authority to adopt the proposed amendment for submission as a fast track action to the Executive Committee. Dr. Zimmet moved to delegate this action to the Executive Committee. The motion was seconded and carried.

BOARD

DISCUSSION/ACTION:

Public Comment Topics. Ms. Reen asked if the Board wanted to consider any action on the topics addressed:

- She stated that VSOMS concerns about requiring permits for sedation and general anesthesia would best be addressed in the regulatory process rather than in the legislation. She added that she and Ms. Yeatts have had preliminary discussions about strategies for assuring that fees are addressed fairly.
- Ms. Reen then advised that legislation would be needed to permit out of state radiologists to routinely read CBT scans for Virginia patients.
- Ms. Reen noted that ads which are sent in with a question or question mark on it are investigated as complaints whether they are submitted anonymously or from a named source. She added that there is no screening mechanism or policy which considers the complaint history of a source or a respondent before an investigation is begun. Dr. Cane said she would like to look into this matter and would coordinate with Ms. Reen.

Revision of Guidance Document 60-10. Ms. Reen referred the Board to the green page C1 and C2 to review the changes recommended by the Regulatory-Legislative Committee. Dr. Boyd moved to accept the guidance document as amended by the Committee. The motion was seconded and carried.

Guidance Document on Delegating to Dental Assistants. Ms. Reen reported that she and Dr. Zimmet have worked on the guidance document and plan to submit it for review at the December meeting.

Volunteer Practice Application. Dr. Petticolas advised that he and Ms. Reen had begun work on this and would bring information to the December meeting for consideration.

**REPORT ON CASE
ACTIVITY:**

Mr. Heaberlin reported on the Board's FY2010 fourth quarter disciplinary performance on patient care cases noting that the:

- Clearance rate was 98%,
- Case load over 250 business days was 7%, and
- Cases closed within 250 days were 96%.

He went on to report that 179 cases were closed in the fourth quarter as follows:

- No Violation/Undetermined – 161 cases(included advisory letters for practicing less than 30 days on an expired license)
- Violation / IFC, PHCO, Formal – 12 cases
- Violation / CCA – 6 cases

**EXECUTIVE
DIRECTOR'S
REPORT/BUSINESS:**

Ms. Reen reported the following:

- Staff Update – Ms. Lee is the new case manager who came to us from the Board of Nursing.
- Budget – the Board closed FY2010 well in the black.
- Correspondence with Mr. Pedrotty, SAAG – she had requested that he identify the regulations on sedation and anesthesia that he would like the Board to change and he responded that he only meant to convey his general concerns.

**BOARD COUNSEL
REPORT:**

Mr. Casway said he will be attending the AADB Attorney's Roundtable meeting in October and will give a report at the December meeting.

**Closed Session
Case # 126263:**

Ms. Pace moved that the Board enter into a closed meeting pursuant to §2.2-3711(A) (7) of the Code of Virginia for consultation with and the provision of legal advice by the Assistant Attorney General in the matter of case # 126263. Additionally, she moved that Board staff, Sandra Reen, Huong Vu, and Board counsel, Howard Casway, attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed.

Reconvene:

Ms. Pace moved to certify that the Board heard, discussed or considered only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as were identified in the motion by which the closed meeting was convened.

Decision: Dr. Zimmet moved that the Board finds that the terms numbered 1, 3.a and 3.b of the Order entered on June 17, 2010 have been satisfied and that the Order entered on June 17, 2010 shall be maintained without modification. The motion was seconded and passed.

**NOMINATIONG
COMMITTEE
REPORT/ELECTION
OF OFFICERS:**

Dr. Zimmet stated that the Committee met this morning and proposes the following slate of officers for election:

Jacqueline G. Pace, RDH – President
Robert B. Hall, Jr., DDS – Vice President, and
Augustus A. Petticolas, Jr., DDS – Secretary/Treasurer.

Dr. Zimmet moved to elect the nominees as reported. The motion was seconded and passed.

ADJOURNMENT: With all business concluded, the meeting was adjourned at 11:35 a.m.

Jacqueline G. Pace, R.D.H., President

Sandra K. Reen, Executive Director

Date

Date